

S/N 10/809,961

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	ALFERNES ET AL.	Examiner:	S. GILBERT
Serial No.:	10/809,961	Group Art Unit:	3736
Filed:	MARCH 26, 2004	Docket No.:	11998.5USC7
Title:	METALLIC CARDIAC SUPPORT DEVICE (AS AMENDED HEREIN)		

CERTIFICATE UNDER 37 CFR 1.6(d)

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on May 3, 2005.

By:

Name: Kristine A. Wacek

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL  
DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

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MAY 03 2005

Dear Sir:

Petitioner, Acorn Cardiovascular, Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 601 Campus Drive, St. Paul, Minnesota 55112, in the county of Ramsey, and the state of Minnesota represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/809,961, filed on March 26, 2004 and entitled CARDIAC DISEASE TREATMENT AND DEVICE ("present application"), by virtue of our assignment recorded at Reel 009622, Frame(s) 0650.

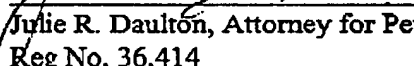
Petitioner, Acorn Cardiovascular, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term as shortened by any terminal disclaimer filed prior to the grant of any patent granted from pending second U.S. Patent Application Serial No. 10/639,875, filed on August 12, 2003, and entitled CARDIAC

DISEASE TREATMENT AND DEVICE ("second application") and hereby agrees that any patent so granted on the present application 10/809,961 shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on the second application, this agreement to run with any patent granted on the present application 10/809,961 and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the present application that would extend to the full statutory term as shortened by any terminal disclaimer filed prior to the patent grant on the second application, in the event that any such issued patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned is an attorney or agent of record.

Date: May 2, 2005

  
Julie R. Daulton, Attorney for Petitioner  
Reg No. 36,414

**23552**

PATENT TRADEMARK OFFICE